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Sent: 6/17/2020 7:17:43 PM
To: Washam, Todd [Washam.Todd@epa.gov]
CC: Kolb, John (JohnMark) [kolb.john@epa.gov]; Struhar, Kirby [struhar.kirby@epa.gov]
Subject: FW: EMBARGOED: EPA CSAPR Trading Program in Texas

Good Afternoon: I'm writing to let you know of a final rule that EPA is scheduled to release as early as tomorrow. Please keep this under embargo. We are not seeking quotes from your boss at this time, but will let you know if that changes.

EPA will issue a final rule to affirm that the Texas SO₂ Trading Program meets Regional Haze requirements. In October 2017, informed by input provided by Texas, EPA put the SO₂ Trading Program in place as a Best Available Retrofit Technology alternative (BART alternative). After public notice and comment, EPA is making minor revisions to an existing Federal Implementation Plan (FIP) to strengthen the Texas SO₂ Trading Program and increase its consistency with the Cross-State Air Pollution Rule (CSAPR). This action also affirms a partial approval of Texas' State Implementation Plan.

Concurrent with this action, EPA is denying a petition for reconsideration on the final rule that CSAPR remains better-than-BART despite the removal of Texas for SO₂ and certain other changes in CSAPR's geographic scope. EPA will continue to work with Texas to ensure that the state meets the Regional Haze requirements of the Clean Air Act.

Additional Information:

Background

The Regional Haze Rule includes provisions that allow states to adopt alternative measures to BART so long as the "BART alternative" will achieve greater overall visibility improvement. Based on this regulatory authority, in 2012, EPA issued regulations allowing the CSAPR states to rely on participation in the CSAPR trading programs in lieu of requiring source-specific BART controls at their BART-eligible EGUs covered by one or more of the CSAPR trading programs with respect to the visibility pollutant at issue (i.e., NO_x or SO₂). This determination authorizing reliance on CSAPR participation as a BART alternative is often referred to as "CSAPR Better Than BART." As many as 21 states relied on CSAPR Better than BART to satisfy their BART requirements for NO_x, SO₂, or both. Currently, 19 states continue to rely on the CSAPR Better than BART determination for at least one pollutant. Refer to Appendix A for more details on the statutory and regulatory background on CSAPR, BART, and BART alternatives, including a summary of the two-pronged numerical test in 40 CFR 51.308(e)(3) that we used to demonstrate that CSAPR makes greater reasonable progress toward natural visibility than BART.

CSAPR Still Better than BART Affirmation

- **September 2017 Final Rule:** EPA removed Texas from the annual NO_x and SO₂ trading programs in response to the D.C. Circuit Court's remand of several states' CSAPR budgets for interstate transport under the PM_{2.5} NAAQS.
- In the same final rule, EPA concluded that CSAPR remained better-than-BART despite the removal of Texas and certain other changes in CSAPR's geographic scope. This conclusion (in both the proposed and final rule) relied in part on the assumption (at the time) that Texas would implement source-specific presumptive BART for SO₂.
 - Commenters raised the issue that emissions may shift into the remaining CSAPR region if TX was removed from the trading program.
 - EPA analyzed this in the final rule: we found that up to ~22,000 tons of SO₂ could theoretically shift to remaining CSAPR states (primarily Georgia and Alabama).
 - We also assumed source-specific BART in TX would reduce SO₂ emissions by ~127,000 tons compared to CSAPR in TX.
 - Thus, in the final rule we assumed a net reduction of ~105,000 tons per year of SO₂ compared to CSAPR (127,000 – 22,000). EPA concluded that CSAPR would clearly still be better than BART with these potential emissions changes, and no additional modeling or analyses were necessary.

Texas SO₂ Intrastate Trading Program

- **October 2017 Final Rule:** EPA finalized a BART-alternative intrastate trading program in TX as its FIP addressing SO₂ BART requirements for certain EGUs. The intrastate trading program imposed an SO₂ emissions budget at a level similar to CSAPR, thus ensuring similar average annual emissions.
 - In August 2018 EPA proposed to affirm the October 2017 Final Rule and provided an additional opportunity for public comment.
 - In both notices, EPA relied on the CSAPR Better Than BART analysis to demonstrate that the Texas program makes greater reasonable progress than BART.

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Congressional Affairs

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